IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 2189 OF 2006

IN

SUIT NO. 2294 OF 1983

Empire Industries Limited .. Plaintiff

versus

The Assistant Assessor and Collector,

Municipal Corporation of Gr. Mumbai. Defendant

...

Mr.M.L. Palan i/b G.R. Mehta for the plaintiff.

Mr.R.Y. Shirsekar for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 22nd January 2007.

P.C.:

1. This motion is taken out in a suit which is listed on board for hearing as undefended suit. Hence, motion is taken up for hearing. By this motion, the defendant seeks to file written statement and prays for condonation of the delay. The defendant is a public body and claims that papers

were misplaced in one of its departments. Hence, I am inclined to condone the delay subject to payment of substantial costs. The delay is of 23 years. The costs calculated at modest rate of Re.1 per day would come to more than Rs.8,000/- which are rounded off to Rs.10,000/-. Delay is condoned subject to payment of Rs.10,000/- within a period of four weeks. Payment of costs is a condition precedent.

2. If the costs are not deposited/paid within four weeks, motion shall stand dismissed without further reference to the court. If the costs are deposited in the court within time. The written statement be taken on record and the suit be listed for framing issues after four weeks. The plaintiff is permitted to withdraw the costs, if deposited.

D.G. KARNIK, J